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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,089	11/03/2003	Erin Hall Sibley	PD-02-0421-B	9585
22462 7590 05/14/2008 GATES & COOPER LLP HOWARD HUGHES CENTER 6701 CENTER DRIVE WEST, SUITE 1050 LOS ANGELES, CA 90045				
EXAMINER RABOVIANSKI, JIVKA A				
ART UNIT 2623		PAPER NUMBER		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

## Application No.

10/700,089

## Applicant(s)

SIBLEY ET AL.

## Examiner

JIVKA RABOVIANSKI

## Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-85/86)  
Paper No(s)/Mail Date 01/12/2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This Office action is in a response of the amendment filed on February 19<sup>th</sup>, 2008.

#### ***Status of Claims***

1. Claims 1 - 6, 8 -16 are pending in the Application.
2. Claims 1 and 9 have been amended.
3. Claim 7 has been canceled.
4. New added claims - none

Applicant's arguments with respect to claims 1 and 7 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Claim Rejections - 35 USC § 103***

**Claims 1 – 6, 8 – 11 and 13 -16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peliotis, Steven (Peliotis hereinafter) US 20020065678 A1, and further in view of James, Randy (James hereinafter) US 20020019987 A1 and view of Freeman, Michael J. (Freeman hereinafter) US 20020129374 A1.**

Regarding claim 1;

A method for providing broadcast video programming, comprising:

a) receiving video programming (receiving from remote video feed – see include, but not limited to - Fig. 6, [0029]);

b) encoding the video programming into a vertical blanking interval and unused active lines of a television channel (encoding the alternate video that is applied to a video blanking interval encoder and also a tag information such as commercials –(a part of video programming) into a VBI - vertical blanking interval – see include, but not limited to – Fig. 6, [0029]) ;

c) broadcasting the television channel and encoded video programming (the encoded alternate video signal and encoded broadcast video signal are applied to the head-end and then transferred to the user's premises – see include, but not limited to -Fig. 7, [0030]);

(d) receiving the broadcast video programming in a user, wherein the user device comprises (User device - set top box receives the transmitted from the headend signal –(Fig. 7) :

(l) tuning hardware configured to receive normal over-the-air terrestrial broadcasts and to pass the encoded video programming (Peliotis includes a set top box for receiving video signal that can select different channels (has a tuner) – [0024], Figs. 3 and 7, but fails to teach over the air transmission. However, James discloses a system of transmitting digital

data information in the Vertical Blanking Interval (VBI) for transmission in a wireless communication network ([008], Fig. 1; selector for tuning in specific channel – [0025]);

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Peliotis with the teaching of over-the-air terrestrial broadcasts – satellite broadcasting as further taught in James to meet all limitation in claim 1, in order to transmit over the air a program with VBI program.

(II) vertical blanking interval software configured to:

(1) receive output from the tuning hardware (VBI decoder receives selected information – see include, but not limited to – the input of VBI decoder - Fig. 7); and

(2) decode the encoded video programming (VBI decoder decodes the encoded information):

(III) decompression software configured to

(1) decompress the decoded video programming; and

Peliotis and James fail to teach decompressing video programming. However, Freeman discloses a system for transmitting digital data where the data is compress and then

decompressed/decoded at the receiver (Figs. 2 and 3, [0050], [0053 – 0054].

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Peliotis and James with the teaching of HTML decoder to decompress the compressed data as further taught in Freeman to meet all limitation in claim 1, in order to reduce the data transfer requirements thereby using the available bandwidth more efficiently.

(2) output analog audio and video signals from the decoded video programming to enable a user to watch the video programming on a screen and speaker of the user device (television screen for displaying programs and sounds – see include, but not limited to- Fig. 7, [0030]) .

Regarding claim 2;

The method of claim 1, wherein the unused Active lines comprise Active lines that are hidden above and below typical lines that a viewer can see on a normal television screen. It is well known that the vertical blanking interval is the time interval between the end of the last line of one frame or field of a raster display, and the beginning of the next. During the VBI the

incoming data stream is not displayed on the screen (unused Active lines). In analog television systems the vertical blanking interval can be used to carry digital data, since nothing sent during the VBI is displayed on the screen.

Regarding claim 3;

The method of claim 1, wherein the encoded video programming is completely transparent to the television channel that is broadcast (The encoded broadcast video signal (Fig. 7) is applied to a video blanking interval decoder that decodes the encoded broadcast video and the decoded video signal can be watched on the TV screen).

Regarding claim 5;

The method of claim 1, further comprising receiving the broadcast encoded video programming in a wireless device.

Pelotus discloses cable program transition, but fails to teach satellite or wireless receiving device. However, James discloses a wireless digital communication system with a mobile unit – see include, but not limited to Fig. 1, [0026]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Pelotus with the teaching

of wireless device for receiving video programming as further taught in James to meet all limitation in claim 5, in order to benefit users to receive wireless programming.

Regarding claim 8;

The method of claim 7, wherein the vertical blanking interval software further comprises subscriber management, conditional access, and encryption functions to control access to the video programming in the vertical blanking interval and unused Active lines.

Peliotis discloses vertical blanking interval decoder, but fails to specify other functions. However, James discloses that the VBI receiver module is specifically designed for quick response VBI-ID/Message identification and subscriber communications processing – see include, but not limited to [0026].

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Peliotis with the teaching of subscriber communication processing as further taught in James to meet all limitation in claim 8, in order to protect transmitted information from unattended access.



Regarding claim 9 see the analysis of claim 1 above where the claim limitation was analyzed.

Regarding claim 10 see the analysis of claim 2 above where the claim limitation was analyzed.

Regarding claim 11 see the analysis of claim 3 above where the claim limitation was analyzed.

Regarding claim 13 see the analysis of claim 5 above where the claim limitation was analyzed.

Regarding claim 14 see the analysis of claim 6 above where the claim limitation was analyzed.

Regarding claim 15 see the analysis of claim 7 above where the claim limitation was analyzed.

Regarding claim 16 see the analysis of claim 9 above where the claim limitation was analyzed.

**Claims 4 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peliotis, James and Freeman an in view of Corvin, Johnny B. (Corvin hereinafter) US 20010029610 A1.**

Regarding claim 4;

Peliotis, James and Freeman fail to disclose the encoded video programming comprises a promotional cable channel. However, Corvin discloses that a program may be received on a program channel and a promotion may be received through this program channel's vertical blanking interval (VBI) – see [0024].

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Peliotis, James and Freeman with the teaching of video programming comprises promotional channel as further taught in Corvin to meet all limitation in claim 4, in order to supply users with more information.

Regarding claim 12 see the analysis of claim 4 above where the claim limitation was analyzed.

### ***Response to Arguments***

Applicant's arguments filed February 19<sup>th</sup>, 2008 have been fully considered.

With respect to Applicant's argument that the Croy reference does not disclose the limitation "a user device receiving over-the air broadcast", examiner respectfully disagrees. The Cry's reference discloses that the broadcast network can be digital terrestrial, satellite – (see col. lines 63 –

64). Also Applicant's arguments regarding "tuning device configured to receive the normal over-the-air broadcast", examiner respectfully disagrees. The Cry's reference discloses that the broadcast network can be digital terrestrial, satellite and receiving device that includes a tuner, therefore that tuning device is configured to receive over-the-air broadcast.

Applicant's arguments regarding "a user device directly receiving broadcast into the device" – if you look at Fig. 1 that shows a receiver that is able to receive directly broadcasting video programming – no another devise between them.

Applicant's arguments regarding VBI is not presented in the remote device – the base station in Fig. 1 and the remote device in Fig. 2 – both devices represent a receiver that has a VBI decoder.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a

first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Contact***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jivka Rabovianski whose telephone number is (571) 270-1845. The examiner can normally be reached on M-F 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, SRIVASTAVA VIVEK can be reached on (571) 272-7304. Customer Service can be reached at (571) 272-2600. The fax number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Jivka Rabovianski/

May 8, 2008

/Vivek Srivastava/

Supervisory Patent Examiner, Art Unit 2623